

MONTANA LEGISLATIVE HISTORY

Chapter 593 19 81

Bill H 838 S _____ Original bill & history C

H. Committee on Appropriations

Hearing Date(s) Mar 25 ☒ C

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Date Out _____ C

S. Committee on Finance & Claims

Hearing Date(s) Apr 10 ☒ C

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No minutes were
found re action
taken.

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

2ND READING: 4/22, YEAS: 69; NAYS: 6
ON MOTION, 4/22, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/22, YEAS: 89; NAYS: 5

TRANSMITTED TO GOVERNOR: 4/23
ACTION: SIGNED, 4/29
CHAPTER 572

HB 836—SIVERTSEN—TO APPROPRIATE MONEY FOR THE IMPLEMENTATION OF
BILL 123, RELATING TO PUBLIC RESOURCE LAND, AND FOR CONTRIBUTION
FUNDS TO STATES LITIGATING LEGISLATION SIMILAR TO SENATE BILL 123

INTRODUCED: 3/7
REFERRED TO COMMITTEE ON APPROPRIATIONS: 3/7
HEARING: 3/25
HEARING: 3/28
BILL DIED IN COMMITTEE

HB 837—BARDANOUVE—TO APPROPRIATE MONEY TO THE DEPARTMENT
ADMINISTRATION FOR CONSTRUCTION OF A GUARD TOWER AT MONTANA
PRISON....

INTRODUCED: 3/11
REFERRED TO COMMITTEE ON APPROPRIATIONS: 3/11
HEARING: 3/24
REPORT: DO PASS, 3/25
2ND READING: 3/27, YEAS: 82; NAYS: 7
3RD READING: 3/31, YEAS: 91; NAYS: 4

TRANSMITTED TO SENATE: 3/31
REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 4/1
HEARING: 4/4
REPORT: 4/4, BE CONCURRED IN
2ND READING: 4/9, YEAS: 30; NAYS: 13
3RD READING: 4/11, YEAS: 30; NAYS: 17

RETURNED TO HOUSE: 4/11
TRANSMITTED TO GOVERNOR: 4/16
ACTION: SIGNED, 4/21

HB 838—LUND, COMMITTEE ON APPROPRIATIONS—REVISING THE AUDIT
CHARGED TO LOCAL GOVERNMENTS....

INTRODUCED: 3/11
REFERRED TO COMMITTEE ON APPROPRIATIONS: 3/11
HEARING: 3/25
REPORT: DO PASS, 3/30
2ND READING: 4/4, YEAS: 81; NAYS: 3
3RD READING: 4/6, YEAS: 93; NAYS: 1

TRANSMITTED TO SENATE: 4/6
REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 4/7
HEARING: 4/10
REPORT: 4/10, BE CONCURRED IN, AS AMENDED
2ND READING: 4/13, BE CONCURRED IN
3RD READING: 4/14, YEAS: 47; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 4/14
2ND READING: 4/20, YEAS: 89; NAYS: 0
ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/20, YEAS: 95; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/23

ACTION: SIGNED, 4/29
CHAPTER 573

930—O'HARA, WINSLOW, KITSELMAN, ET AL—TO APPROPRIATE \$222,808 TO THREE UNITS OF THE UNIVERSITY SYSTEM FOR THE PURPOSE OF A COORDINATED EFFORT TO GRANT A MASTER OF BUSINESS ADMINISTRATION DEGREE.....

INTRODUCED: 3/13

REFERRED TO COMMITTEE ON APPROPRIATIONS: 3/13

HEARING: 3/21

BILL DIED IN COMMITTEE

940—BARDANOUVE, VAN VALKENBURG—TO ESTABLISH EMPLOYEE COMPENSATION PLANS AND BENEFIT LEVELS, REVISE THE CLASSIFICATION APPEALS PROCEDURES, AND PROVIDE PAY SCHEDULES FOR FISCAL YEARS 1982 AND 1983....

INTRODUCED: 3/13

REFERRED TO SELECT COMMITTEE ON EMPLOYEE COMPENSATION: 3/13

HEARING: 3/18

HEARING: 3/28

2ND READING: 4/11, AS AMENDED, YEAS: 56; NAYS: 43

ON MOTION, 4/11, RULES SUSPENDED, PLACED ON 3RD READING.

3RD READING: 4/11, YEAS: 55; NAYS: 44

TRANSMITTED TO SENATE: 4/11

REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 4/13

HEARING: 4/16

REPORT: 4/16, BE CONCURRED IN

ON MOTIONS, 4/16, RULES SUSPENDED, PLACED ON 2ND & 3RD READING

2ND READING: 4/16, YEAS: 38; NAYS: 12

3RD READING: 4/16, YEAS: 39; NAYS: 11

RETURNED TO HOUSE: 4/16

TRANSMITTED TO GOVERNOR: 4/16

ACTION: SIGNED, 4/17

CHAPTER 421

941—BROWN—TO APPROPRIATE MONEY FOR PURCHASE OF NEUTRON ACTIVATION AND GAMMA RADIATION DETECTION AND ANALYSIS EQUIPMENT BY THE MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY.

INTRODUCED: 3/16

REFERRED TO COMMITTEE ON LONG RANGE BUILDING: 3/16

HEARING: 3/27

REPORT: DO PASS AS AMENDED, 4/10

ON MOTION, 4/13, PASSED FOR THE DAY.

2ND READING: 4/14, YEAS: 77; NAYS: 0

ON MOTION, 4/14, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/14, YEAS: 81; NAYS: 6

TRANSMITTED TO SENATE: 4/14

REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 4/15

HEARING: 4/20

REPORT: 4/20, BE CONCURRED IN

2ND READING: 4/21, YEAS: 48; NAYS: 1

ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/21, YEAS: 43; NAYS: 5

RETURNED TO HOUSE: 4/21

TRANSMITTED TO GOVERNOR: 4/23

ACTION: SIGNED, 4/29

lose dollars. He stated that the county base was 9.25% and that the request in HB 845 would compensate for this difference. He asked how many counties and school districts had to go into their reserve funds to cover the difference.

REP. MOORE stated that commercial property was extracted from the 1972 manual a few years ago. He stated that he feels residential property problems were straightened out. He added that the prior director of the Department of Revenue, stated that the burden would be on commercial property owners and not the Department.

REP. MANUEL stated that the commercial property owners who did not appeal have been paying higher taxes than they should have.

MR. MISNER stated that the reserve in the counties is to pay bills between July and November, as no funds are collected during that time. He added that school districts are allowed to retain 35% in reserves.

REP. HURWITZ asked if all the school districts were able to function within the 65 mill limit. Mr. Misner stated that not all of them were able to do this and that if taxable valuation does not exceed 105% of the prior years' budget the district would have to cut back as there would be no reserve. He stated that the school districts have progressive used up more funds during cut-backs.

MR. ANDERSON stated that he feels this has not harmed the school districts at all.

In Closing, Rep. Fabrega, stated that he feels the bill should be passed.

HB 838.

CHAIRMAN LUND stated that HB 838 would create revolving accounts for local governments to pay the State for audit fees.

MR. DAVE WANZENRIED, Acting Director, Department of Community Affairs, stated that the bill is a compromise between a self-supporting program and an audit program, and that it would require biennial audits versus the current requirement for annual audits and a revolving account instead of general funding. He added that the bill would require a one-time appropriation of \$157,000 to begin the revolving account and that current audit fees would be repealed.

MR. WANZENRIED stated that he would like to offer an amendment to the bill regarding annual audits, and that following page 2, line 6, he would insert the attached wording on

line 8. (Exhibit attached).

MR. MIKE STEPHEN, Montana Association of Counties, stated his support of HB 838 and the amendment.

REP. HURIWITZ stated that he was a proponent of the bill.

MR. DAN MISNER, Executive Director, Montana League of Cities and Town, stated his support of the bill.

REP. BARDANOUVE stated that he would support the bill and the amendment as proposed.

HB 837.

REP. BARDANOUVE stated that the bill would appropriate \$255,000 to construct an additional guard tower at Montana State Prison at Deer Lodge. He stated that there is an area of the prison yard that cannot be seen from the front tower and that the new tower would correct this problem.

REP. BARDANOUVE stated that the appropriation also provides for two spotlights for the towers at more than \$5,000 each. He stated that the State of Montana is subject to serious law suits when an escape situation exists and is not corrected.

REP. MOORE stated that funding would come from Long-Range Cash Insurance Program.

REP. HURWITZ moved that the Committee DO PASS HB 837.

REP. BARDANOUVE stated that the appropriation also includes an electronic control for the gates and REP. MOORE stated that the costs are broken down dollar for dollar.

The motion, as made by REP. HURWITZ was unanimously approved.

HB 369.

REP. MOORE moved that the Committee table HB 369. The motion was seconded by REP. BARDANOUVE and unanimously approved by the members of the Committee.

HB 368.

REP. MOORE moved that the Committee DO PASS HB 368. REP. SHONTZ made a substitute motion that HB 368 be tabled. The motion, as made by REP. SHONTZ was approved 15-2, with REP. STOBIE and REP. LORY voting no.

HB 355.

REP. CONROY moved that HB 355 DO NOT PASS. The motion was approved

3-25-81

Amend House Bill 838, Introduced Copy as follows:

1. Amend page 2, line 8 as follows:

Following: "entity"

Insert: ", unless annual audits are requested by the governmental
entity"

Les Graham, Department of Livestock: I think your concerns about going in different directions are valid. We are on a low band now. It is almost impossible to use it because of the skip that is coming in. The sheriff's office is on a high band in another county. We work in remote areas. If you hit one of the dead spots you cannot be reached. They will use their own investigation. Something will have to be done not only for getting through and communicating with other groups, but also for safety. On most of our radios we can communicate. We have 4 channels. We are no longer willing to buy radios out of our system. They are outdated. We don't feel we want to replace them until we can get the type of system that will work.

Representative Lory closed by saying we are looking at money down the road. Increased cost on a study to see if we can solve the rapid escalation.

Senator Himsl declared the hearing closed.

CONSIDERATION OF HOUSE BILL 838: Representative Lund said this was at the request of the Appropriations committee. It is the committee bill on Appropriations. When we switched and did away with DCA this was a part put into the Department of Administration. DCA had been doing many audits for the cities and towns, school districts, etc. They helped them to set up bookkeeping systems. Many of the local governments thought it should be continued and we dropped this bill in to allow them to continue. Before, the audits were annual, now they are every 2 years. Section 4 lets them do a special audit if requested to do so by the local government. Audits may be done by an independent contract, it does not necessarily have to be done by the state government. Section 7 deposits the audit fees in a revolving fund. To start the revolving fund is money from the general fund from the Department of Community Affairs. Since Senate Bill 432 passed we would do away with the Department of Community Affairs and I would suggest an amendment on page 2, line 8. After "entity" insert "unless annual audits are requested by the government entities." If they want an annual audit they have to pay for it.

Morris Brussett, DOA, Earlier a discussion of phasing out of local government. We had a lot of people calling to continue the service. They are more interested in the help they can get than they are from the actual audits from the state. To make it self supporting we have had to remove the section on page 4 and the fees we would now charge would be the actual cost. On page 2, every 2 years meets the federal requirement and there is a penalty section on page 6 which provides if the bill is not paid in a certain period there could be an offset of money going to the community.

Dave Wanzenried, Department of Community Affairs said that the Department supports the bill. It is a necessary compromise. The

was a concern that the state was subsidizing state audits and it was suggested you incorporate the amendment Mr. Lund gave you into the bill.

There were no further proponents, and no opponents and the Chairman asked if there were questions from the committee.

Senator Aklestad: On page 6, section 8. The \$157,500 in general fund money to be transferred to the DOA. If this is going to self sustaining will it be replenished then? Lund: No, it will stay in the revolving account.

Senator Aklestad: Was it appropriated to DCA? Lund: No.

Senator Aklestad: Why not? Lund: At one time this was almost forgotten about. This unit of State government--and when you did away with the DCA it was left standing out there and nothing was done about it. I received many calls from local governments wanting this left in. They wanted some of the expertise the state government has given them

Senator Johnson: The fee structure is stricken. Why? Lund: was stricken because it was kind of encased in concrete and the audit being an independent account he can charge his rate. The state will have a rate too.

Senator Johnson: Will the net effect be a greater expense to local government? Lund: I would say so.

Senator Himsl: I don't think it will be greater. The information I have was the program services to be received, but the accounting system service would be removed but the audit would not be. The outside governments were concerned the local CPA's were charging them so much money. This puts the state government back on board on a cost basis instead of the way the local CPA's were on. It will take quite an army of auditors on board to do this. They maintained they were satisfied with the accounting system, but not in getting enough audits done.

Mr. Prendergast, Administrator of Local Government Services in DCA. We had 22 field auditors. This was the staffing pattern approved. That is what we are going to be using and the local governments have to audit every 2 years. It will be complimentary with contracts to various CPA's throughout the state.

Senator Himsl: Are you going on a bid basis on contracts? Prendergast: It is negotiated by the local government and the firm. The bill will be on time involved.

Senator Himsl: Does that prevent you from putting out bids for those services? Prendergast: It is not in our plan now, no.

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Senator Himsl: In our experience with the Legislative Audits we have found the fee could be less by the use of bids. Prendergast: The contract that allowed CPA's to be included to work in this area is between Montana and the CPA's including the State of Montana. We recommend they have bids on proposals but we leave it to their discretion. We got them to get bids from a couple of people we have available to do the work.

Senator Himsl: How do you see the audits coming in? Do you want them to make their own arrangements or do you say we will send this crew in? Prendergast: We work up our work schedule and inform many of the local governments if you wish to contract, we will get the process going or help to get it going. This is our 4th year in this business and things seem to be working very well.

Senator Aklestad: If continuing with the local CPA, how can we save if not on a bid basis? Prendergast: We are responsible for the audit lists at the state level. They have the option of having a contract to allow the local government to continue with local CPA's or to have the state do the work. It is a partnership between what we can cover and encourage the local governments to continue so the work can be covered. There will be a savings in moving this from the general fund to the revolving fund. The rates will go up in terms of local government. They have said they have no problem with the increase in rates so long as they get the service.

Senator Keating: I was in the subcommittee on this. There were a number of people in from the counties. Not so much the auditors in the office, they were primarily concerned with having state auditors when problems arise they can rely on information between audits. Most of them said they could contract for local auditors, but that was not their main concern.

Senator Keating: Representative Lund, we increased it already - the fee the auditors can charge. Is it not in the bill? Are they supposed to go to 30 or 35?

Morris Brussett: We removed the fee structure we had. The audit fees will be done on the cost occurred. We don't have a fee structure as such any more.

Senator Smith: If I understand this is seed money. From then on that money will remain and there and no one will be coming back and asking for more down the road. Lund: Yes.

Senator Story: This is also general fund money into it. It cuts off then. I have trouble with section 6. I don't think it should be in there and would you mind if we took it out? Lund: I have no trouble. M. Brussett: Could Mr. Prendergast address that?

Mr. Prendergast: There is a problem in the revolving fund we do not get our payments on time. We thought this would encourage the prompt payment of the fee.

Senator Boylan: Let's say you get into Bozeman and find the plumb broke, and have no money to pay it. If the auditor says they are broke, where are they going to come up with the money? Prendergast: We always get paid. We need a method to get payment so that we can pay the staff people, and keep the revolving fund going.

Senator Story: They could put a community really behind the eight ball. They could really mess up the system with this. Prendergast: I would just add that if this is the feeling that it is undesirable we in the trenches have no objection. The point is going on a revolving fund we need to have resources. One way to have them is through prompt collection.

Representative Lund said he had no closing remarks, and Senator Himsl declared the hearing closed on House Bill 838.

CONSIDERATION OF HOUSE BILL 865: Representative Lund said he has no intention of introducing this bill until the Department of Revenue approached him. Going back to House Bill 94 there are two phases to the law suit which is the problem of the Burlington Northern and their paying taxes under protest. The state was forced into a situation of proving they are right on the reclassification of the railroad property. We were informed by the Department of Revenue that it might amount to \$150,000. This has to do with phase 1, the up-front money. Originally it was thought they had enough money but Representative Bardanove objected and they had this bill drawn up. The committee had the help on the law-suit were mediocre and the best was needed if we were going to win, and that would cost more money.

Representative Lund said he had signed the bill for the additional funds for the up-front money for the Department of Revenue and was very upset that the bill had been returned with all the additional money in it. He felt they had been added without his permission in the bill. He said he felt if they could not have their act together for House Bill 94 they should have swallowed it and been on their way. He had asked that the bill be drawn at \$150,000 and it came out at \$250,000.

Senator Himsl: I have one question. were these amendments passed on in the committee or on the floor or what? Lund: No. The bill was drawn that way.

Ellen Feaver, Director of Department of Revenue said she was one who had requested the \$150,000 which is the result of a law suit. Of the \$8.2 million the Burlington Northern is protesting \$6 + million. This suit will continue annually and the count will be without this unless we finally settle. We are hiring experts and they come to Montana. These are experts who have handled and worked on the Penn Central and the Am Track cases

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Senator Stimatz: That decision just came down about 4 days ago.
Hims1: The rumor I get is that it is quite a bit more. That was only the one case.

Senator Smith: I have a question for anyone that can answer The transportation of Prisoners. Something happened recently. If these are jumping up just before we are out of session you can't run to them to get funding later.

Senator Dover: This is a way to get promoted above the present pay scale. A lot of these people will do a little differently to get a little more pay. Now the court is behind it.

Senator Van Valkenburg: I would like to ask Gene, why the Department of Agriculture? Were they involved in the ruling also? Huntington: These were all the ones that were tied to the decision because they had the same defense on the supplemental budget issue. All of them are in the Department of Institutions except the one.

Senator Van Valkenburg: The one on the actual ruling was the prison lieutenants? Huntington: Yes.

Senator Van Valkenburg: Just what is this repeal and routine thing? Les Graham, Department of Livestock: We cut out the entire bureau from the Department of Livestock. It is to be contracted to the Department of Agriculture. These Employees should go with them but they decided to terminate. They essentially block the program between now and July 1. We are not going to have the program until after July and we brought this up in the subcommittee.

Senator Hims1: What did you say the \$20,000 was used for?

Ellison: At this point in time we are about 2% behind in our budget. The rent has increased. It will just get us through the year with minimum operations.

Senator Hims1 declared the hearing closed since there were no further questions from the committee.

Senator Regan said before we left the bill, apparently she had made some comments to Mr. South about the architect fees. I would like to ask Mr. South to respond. In all fairness to the rest of the committee, I wasn't really taking a cheap shot.

DISPOSITION OF HOUSE BILL 838: Senator Hims1 said this is the bill on audit fees on local governments, and there is a proposed amendment on page 2, line 8.

Motion by Senator Regan to move the amendment on page 2, line 8. Voted and passed.

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Senator Story expressed some concerns on page 6. Senator Regan said if it is really a revolving fund you have to have some sort of leverage. Without some means of getting the money in, the revolving fund will not work. I don't see any trouble with it. It is a good one.

Senator Himsl: I don't think it is too serious a thing. They have no authority to cut off any money.

MOTION by Senator Dover that House Bill 838, as amended, be concurred in. Voted, Passed. Senator Himsl will carry the bill.

DISPOSITION OF HOUSE BILL 601: Senator Himsl said this is the irrigation district at Glen Lake. There was some question and we heard some comments about it.

MOTION by Senator Etchart that we concur in House Bill 601.

Senator Regan: I have some problems with it. I had asked for people from the Department of Natural Resources to be here. They would have a chance to talk to the Department before we consider this bill. It seemed there was an interest in Hydro power. The report we read said it was not feasible at all. Mr. Fritz is here. May I address some questions to him, Mr. Chairman?

Senator Regan: I read a report that was done by your staff. It clearly indicates that preliminary estimates are not feasible for Hydro. Has the department changed their mind? Fritz: I understand it relates to installing hydro power at this time. I expect it will become important at some time in the future. This bill is to replace the syphon. The St. Clair Siphon is divorced from the question of whether the hydro-electricity is feasible in the future.

Senator Smith: Is this replacing something that is already working? Fritz: Yes. The syphon. Many members of the project and they have spent over \$800,000 of their own money on the project. As a consequence, they are paying a lot for water now. They have to replace that syphon.

Senator Himsl: Can you assure us that this will do the job now? Mr. Fritz: We use standard rates for labor. They are going to construct the project with volunteer labor and scrounging some of the material they need locally. By doing this they can probably build it for this.

Senator Aklestad: If I understand the report that Senator Regan had, a lot of these projects have already been done. Now, because of the syphon they can only run it at about 1/2 capacity. Fritz: If updated, the syphon will serve about that many more people.

STANDING COMMITTEE REPORT

April 10, 1981

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 838

(Hims1)

Respectfully report as follows: That House Bill No. 838
third reading, be amended as follows:

1. Page 2, line 8.

Following: "entity:

Insert: ", unless annual audits are requested by the governmental
entity "

U.O.
And, as amended,
BE CONCURRED IN

XXXXXX